

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER 00-0335
RESPONSIBLE OFFICER
SALES TAX and WITHHOLDING TAX
For Tax Periods: 1994-1996

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Issues

Sales and Withholding Tax -Responsible Officer Liability

Authority: IC 6-2.5-9-3, IC 6-3-4-8 (f), IC 6-8.1-5-1 (b)..

The taxpayer protests the assessment of responsible officer liability for unpaid corporate sales and withholding taxes.

Statement of Facts

The taxpayer was president of a corporation which did not remit the proper amount of sales withholding taxes to Indiana. The taxpayer was personally assessed for the taxes and protested these assessments. More facts will be provided as necessary.

Sales and Withholding Tax -Responsible Officer Liability

Discussion

The proposed sales tax liability was issued under authority of IC 6-2.5-9-3 which provides as follows:

An individual who:

- (1) is an individual retail merchant or is an employee, officer, or member of a corporate or partnership retail merchant; and
- (2) has a duty to remit state gross retail or use taxes to the department;

holds those taxes in trust for the state and is personally liable for the payment of those taxes, plus any penalties and interest attributable to those taxes, to the state.

The proposed withholding taxes were assessed against Taxpayer pursuant to IC 6-3-4-8(f), which provides that "In the case of a corporate or partnership employer, every officer, employee, or member of such employer, who, as such officer, employee, or member is under a duty to deduct and remit such taxes shall be personally liable for such taxes, penalties, and interest."

Indiana Department of Revenue assessments are prima facie evidence that the taxes are owed by the Taxpayer who has the burden of proving that assessment is incorrect. IC 6-8.1-5-1 (b).

At the hearing, the taxpayer agreed that he was responsible for the remittance of the corporate trust taxes.

Finding

The taxpayer's protest is denied.